

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# **HOUSE BILL 2018**

AN ACT

AMENDING SECTION 11-445, ARIZONA REVISED STATUTES; RELATING TO CIVIL ACTION FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 11-445, Arizona Revised Statutes, is amended to  
3 read:

4           11-445. Fees chargeable in civil actions by sheriffs,  
5           constables and private process servers; authority of  
6           private process servers; background investigation;  
7           constables' logs

8       A. The sheriff shall receive the following fees in civil actions:

9           1. For serving each true copy of the original summons in a civil suit,  
10      sixteen dollars, except that the sheriff shall not charge a fee for service  
11      of any document pursuant to section 13-3602 or any injunction against  
12      harassment pursuant to section 12-1809 if the court indicates the injunction  
13      arises out of a dating relationship.

14           2. For summoning each witness, sixteen dollars.

15           3. For levying and returning each writ of attachment or claim and  
16      delivery, forty-eight dollars.

17           4. For taking and approving each bond and returning it to the proper  
18      court when necessary, twelve dollars.

19           5. For endorsing the forfeiture of any bond required to be endorsed by  
20      him THE SHERIFF, twelve dollars.

21           6. For levying each execution, twenty-four dollars.

22           7. For returning each execution, sixteen dollars.

23           8. For executing and returning each writ of possession or restitution,  
24      forty-eight dollars plus a rate of forty dollars per hour per deputy or  
25      constable for the actual time spent in excess of three hours.

26           9. For posting the advertisement for sale under execution, or any  
27      order of sale, twelve dollars.

28           10. For posting or serving any notice, process, writ, order, pleading  
29      or paper required or permitted by law, not otherwise provided for, sixteen  
30      dollars except that posting for a writ of restitution shall not exceed ten  
31      dollars.

32           11. For executing a deed to each purchaser of real property under  
33      execution or order of sale, twenty-four dollars.

34           12. For executing a bill of sale to each purchaser of real and personal  
35      property under an execution or order of sale, when demanded by the purchaser,  
36      sixteen dollars.

37           13. For services in designating a homestead or other exempt property,  
38      twelve dollars.

39           14. For receiving and paying money on redemption and issuing a  
40      certificate of redemption, twenty-four dollars.

41           15. For serving and returning each writ of garnishment and related  
42      papers, forty dollars.

43           16. For the preparation, including notarization, of each affidavit of  
44      service or other document pertaining to service, eight dollars.

1       17. For every writ ~~served on behalf of~~ ISSUED BY a justice of the  
2 peace, a fee established by the board of supervisors not to exceed five  
3 dollars per writ THAT THE COURT SHALL COLLECT. Monies collected from the  
4 writ fees shall be deposited in the constable ethics standards and training  
5 fund established by section 22-138.

6       B. The sheriff shall also collect the appropriate recording fees if  
7 applicable and other appropriate disbursements.

8       C. The sheriff may charge:

9           1. Fifty-six dollars plus disbursements for any skip tracing services  
10 performed.

11          2. A reasonable fee for executing a civil arrest warrant ordered  
12 pursuant to court rule by a judge or justice of the peace. The fee shall  
13 only be charged to the party requesting the issuance of the civil arrest  
14 warrant.

15          3. A reasonable fee for storing personal property levied on pursuant  
16 to title 12, chapter 9.

17       D. For traveling to serve or on each attempt to serve civil process,  
18 writs, orders, pleadings or papers, the sheriff shall receive two dollars  
19 forty cents for each mile actually and necessarily traveled but, in any  
20 event, not to exceed two hundred miles, nor to be less than sixteen dollars.  
21 Mileage shall be charged one way only. For service made or attempted at the  
22 same time and place, regardless of the number of parties or the number of  
23 papers so served or attempted, only one charge for travel fees shall be made  
24 for such service or attempted service.

25       E. For collecting money on an execution when it is made by sale, the  
26 sheriff and the constable shall receive eight dollars for each one hundred  
27 dollars or major portion thereof not to exceed a total of two thousand  
28 dollars, but when money is collected by the sheriff without a sale, only  
29 one-half of such fee shall be allowed. When satisfaction or partial  
30 satisfaction of a judgment is received by the judgment creditor after the  
31 sheriff or constable has received an execution on the judgment, the  
32 commission is due the sheriff or constable and is established by an affidavit  
33 of the judgment creditor filed with the officer. If the affidavit is not  
34 lodged with the officer within thirty days of the request, the commission  
35 shall be based on the total amount of judgment due as billed by the officer  
36 and may be collected as any other debt by that officer.

37       F. The sheriff shall be allowed for all process issued from the  
38 supreme court and served by the sheriff the same fees as are allowed the  
39 sheriff for similar services on process issued from the superior court.

40       G. The constable shall receive the same fees as the sheriff for  
41 performing the same services in civil actions, except that mileage shall be  
42 computed from the office of the justice of the peace originating the civil  
43 action to the place of service.

44       H. Notwithstanding subsection G of this section, in a county with a  
45 population of more than three million persons, if an office of a justice of

1 the peace is located outside of the precinct boundaries, the mileage for a  
2 constable shall be calculated pursuant to subsection D of this section,  
3 except that the distance between the precinct boundaries and the office of  
4 the justice of the peace, as determined by the county and certified by the  
5 board of supervisors of that county, shall be subtracted from the mileage  
6 calculation. This certified mileage calculation shall be transmitted to the  
7 justice courts, and the clerks of those courts shall calculate the mileage  
8 between the office of the justice of the peace and the location where the  
9 civil process, writ, order, pleading or paper was served and reduce the  
10 mileage used to calculate the mileage fee according to the certified mileage  
11 calculation for that respective jurisdiction.

12 I. Private process servers duly appointed or registered pursuant to  
13 rules established by the supreme court may serve all process, writs, orders,  
14 pleadings or papers required or permitted by law to be served before, during  
15 or independently of a court action, including all such as are required or  
16 permitted to be served by a sheriff or constable, except writs or orders  
17 requiring the service officer to sell, deliver or take into the officer's  
18 custody persons or property, or as may otherwise be limited by rule  
19 established by the supreme court. A private process server is an officer of  
20 the court. As a condition of registration, the supreme court shall require  
21 each private process server applicant to furnish a full set of fingerprints  
22 to enable a criminal background investigation to be conducted to determine  
23 the suitability of the applicant. The completed applicant fingerprint card  
24 shall be submitted with the fee prescribed in section 41-1750 to the  
25 department of public safety. The applicant shall bear the cost of obtaining  
26 the applicant's criminal history record information. The cost shall not  
27 exceed the actual cost of obtaining the applicant's criminal history record  
28 information. Applicant criminal history records checks shall be conducted  
29 pursuant to section 41-1750 and Public Law 92-544. The department of public  
30 safety is authorized to exchange the submitted applicant fingerprint card  
31 information with the federal bureau of investigation for a federal criminal  
32 records check. A private process server may charge such fees for services as  
33 may be agreed on between the process server and the party engaging the  
34 process server.

35 J. Constables shall maintain a log of work related activities  
36 including a listing of all processes served and the number of processes  
37 attempted to be served by case number, the names of the plaintiffs and  
38 defendants, the names and addresses of the persons to be served except as  
39 otherwise precluded by law, the date of process and the daily mileage.

40 K. The log maintained in subsection ~~I~~ J of this section is a public  
41 record and shall be made available by the constable at the constable's office  
42 during regular office hours. Copies of the log shall be filed monthly with  
43 the clerk of the justice court and with the clerk of the board of  
44 supervisors.